



Paper No.

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APR 12 2002

OFFICE OF PETITIONS

In re Application of
Frank W. Ahern
Application No. 09/819,053
Filed: May 20, 2000
Attorney Docket No. 101950.00027

ON PETITION

~~In re Application of
Frank W. Ahern
Application No. 09/933,347
Filed: May 20, 2000
Attorney Docket No. 101950.00027~~

This is a decision on the petition filed by facsimile transmission on March 22, 2002, in Application No. 09/933,347, requesting that Application No. 09/819,053 be voided, as it is a duplicate of Application No. 09/933,347.

A review of the record of Application No. 09/819,053 discloses that a petition was filed on February 20, 2001, requesting, in effect, that lost application papers requesting a continued prosecution application under 37 CFR 1.53(d) be converted to a filing under 37 CFR 1.53(b) and accorded a filing date of May 20, 2000. The petition was granted in a decision mailed June 7, 2001.

A review of the record of Application No. 09/933,347 indicates the original request for a continued prosecution application (CPA) under 37 CFR 1.53(d) filed on May 20, 2000 apparently resurfaced sometime after the creation of Application No. 09/819,053. However the CPA request under 37 CFR 1.53(d) was processed under the provisions of 37 CFR 1.53(b) and assigned Application No. 09/933,347, with a filing date of May 20, 2000.

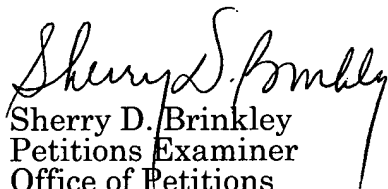
Clearly an application filed under 37 CFR 1.53(d) cannot be treated as an application under 37 CFR 1.53(b), except by way of a granted petition. Since Application No. 09/933,347 resulted without proper authority, the file of Application No. 09/933,347 will be merged into the file of Application No. 09/819,053. The full filing fees paid on December 17, 2001 in Application No. 09/933,347 will be refunded to counsel's deposit account.

In view of the above, the petition is **DISMISSED**. The correct application number for the application filed May 20, 2000 by Frank W. Ahern under Attorney Docket No. 101950.00027 has been confirmed as 09/819,053.

The applications are being returned to Initial Patent Examination Division for merging the file of Application No. 09/933,347 into the file of Application No. 09/819,053.

Thereafter, Application No. 09/819,053 will be further processed as a continuation application under 37 CFR 1.53(b), with a filing date of **May 20, 2000**.

Application No. 09/933,347 will no longer be an active serial number. All further correspondence concerning this application must be directed to Application No. 09/819,053.



Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



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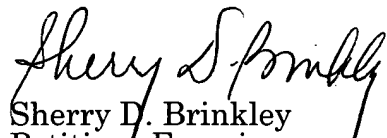
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